

## Forest Service, USDA

## § 230.31

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### Subpart C—Forest Land Enhancement Program

SOURCE: 68 FR 34314, June 9, 2003, unless otherwise noted.

#### § 230.30 Purpose and scope.

(a) The regulations in this subpart govern the operation of the Forest Land Enhancement Program (hereafter, FLEP) as provided in Section 4 of the Cooperative Forestry Assistance Act (16 U.S.C. 2101 *et seq.*), as amended by title VIII of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107-171). The purpose of FLEP is to provide a coordinated and cooperative Federal, State, and local sustainable forestry program for the establishment, management, maintenance, enhancement, and restoration of forests on nonindustrial private forest land.

(b) The educational assistance, resource management expertise, and financial assistance provided under FLEP shall complement any existing Federal or State programs or programs offered through institutions of higher learning providing assistance to nonindustrial private forest landowners. FLEP promotes improved coordination and cooperation among Federal, State, and local programs regarding the establishment, maintenance, enhancement, and restoration of nonindustrial private forestlands.

(c) Participation in FLEP is voluntary on the part of both the State and the nonindustrial forest landowner. To participate, each State must have nonindustrial private forest lands, a State Forester or equivalent, and a State Forest Stewardship Coordinating Committee.

#### § 230.31 Definitions.

The terms used in this subpart are defined as follows:

*Capital investment or improvement.* Durable equipment or assets capable of being amortized or depreciated over a period of 3 or more years, not including activities or practices carried out as part of the Forest Land Enhancement Program (FLEP) cost-share element.

*Catastrophic natural event.* Destructive natural event, which includes, but is not limited to, wildfires, insect infestations, disease outbreaks, droughts, floods, windstorms, freezing, ice storms, hail, sleet, mudslides, landslides, earthquakes, avalanches, tornadoes, volcanoes, hurricanes, or tsunamis.

*Chief.* The Chief of the Forest Service, United States Department of Agriculture.

*Committee.* The State Forest Stewardship Coordinating Committee.

*Concurrence.* Review, verification, and confirmation by the Responsible Official that the State priority plan contains all of the key elements required by law and the rules of this subpart.

*Cost-share.* A program payment, on a reimbursable basis, at a maximum of 75 percent of the cost incurred by a landowner for implementation of a State-approved activity or practice authorized under FLEP.

*Financial assistance.* Funds disbursed as an award by the Federal Government to an eligible party from the FLEP annual apportionment, in the form of money, including grants, agreements, contracts, and other arrangements.

*Fiscal year.* The accounting period, used by the United States Government, from October 1 through September 30.

*Landowner.* An individual, group, association, corporation, Indian Tribe, or other legal private entity owning nonindustrial private forest land or a person who receives concurrence from the landowner for practice implementation and who holds a lease on the land for a minimum of 10 years. Corporations whose stocks are publicly traded or owners principally engaged in the primary processing of raw wood products are excluded.

*Management plan.* A written plan prepared by a service representative and approved by a State Forester.

*Nonindustrial private forest land.* Rural lands with existing tree cover, or which are suitable for growing trees, that are owned by any landowner as defined in this section.

*Practice.* A prescribed, natural resource management activity that is

consistent with a practice plan and implemented through FLEP to enhance the multiple resource values and benefits and that results in improved conditions on nonindustrial private forest land. A practice may consist of multiple components.

*Practice plan.* A plan prepared by a service representative and approved by the State Forester that documents the specific practices that are to occur as a result of a landowner application for cost-share. A practice plan may be a stand-alone document or it may be a part of a management plan.

*Responsible official.* USDA Forest Service Regional Forester, Area Director, or Institute Director charged with the administration of FLEP.

*Service representative.* Any person who is recognized by a State Forester as having the knowledge and skills to develop management plans, understanding of the economic and environmental interrelationships of forestry and/or agroforestry resources, and the ability to identify appropriate activities to manage, protect, or enhance such resources. The State Forester designates service representatives as the line officers to perform specified FLEP elements.

*State.* Includes each of the States in the United States, and the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

*State Forester.* The director or other head of a State forestry agency or equivalent State official.

*State priority plan.* The document required from a State to participate in FLEP. A State Forester jointly prepares this plan with the State Forest Stewardship Coordinating Committee to facilitate long-term sustainability of nonindustrial private forest lands within the State.

**§ 230.32 National program administration.**

(a) The Chief shall develop and implement FLEP in partnership with State forestry agencies and in consultation with other Federal, State, and local natural resource management agencies, institutions of higher learning,

and a broad range of private sector interests.

(b) In collaboration with State Foresters, the Chief of the Forest Service and Responsible Officials shall oversee developing and implementing FLEP policy and procedure, including the monitoring of program results over the life of FLEP to ensure that environmental, economic, and social values and public benefits are derived from the program.

(c) The Chief shall annually distribute such funds as may be available for FLEP to the Responsible Official(s) for each of the three geographic funding areas based on the criteria set out in the Forest Service Manual Chapter 3310.

(d) In developing allocation factors for making FLEP distributions under this subpart,

(1) The Chief shall consult with the State Foresters through their Forest Resource Management Committee, a standing committee of the National Association of State Foresters, or its successor.

(2) Allocation factors shall be based on National data sources that address the current status of forest lands of each State or Territory participating in FLEP. Data must be measurable, inclusive of all States, objective, and reliable. The data will address those factors described in the Cooperative Forestry Assistance Act (16 U.S.C. 2103(i), Distribution of Cost-Share Funds).

(e) National priorities for FLEP shall reflect the Department and Forest Service priorities for nonindustrial private forest land as provided in the Forest Service Manual Chapter 3310.

(f) The Responsible Official(s) in each of the three geographic funding areas shall coordinate with their respective State Foresters to determine the final allocation to each State based on the following:

- (1) National priorities;
- (2) National allocation factors;
- (3) Regional and State-wide priorities;
- (4) Ability of the State to deliver FLEP; and
- (5) Direction in the Forest Service Manual Chapter 3310.